Simple Cafeteria Plans

Takes Effect:

Starting January 1, 2011, small employers that meet certain plan design requirements may establish a simple cafeteria plan. These plans are treated as meeting the nondiscrimination requirements of Internal Revenue Code § 125; this favorable treatment enables more small employers to offer tax-advantaged cafeteria plans to their employees.

Quick Facts:

- Small employers (generally up to 100 employees) may be eligible to establish a simple cafeteria plan.
- Eligible employers must meet certain contribution requirements and eligibility and participation requirements to qualify as a simple cafeteria plan.
- A simple cafeteria plan is treated as complying with IRS nondiscrimination rules for cafeteria plans.

Details:

Eligibility: Employer with an average of 100 or fewer employees during either of the two preceding years, or if the business was not in existence throughout the preceding year, the employer is eligible if it reasonably expects to employ an average of 100 or fewer employees in the current year. Also, if a simple cafeteria plan is established in a year in which an average of 100 or fewer employees are employed, the employer remains eligible for subsequent years as long as it does not employ an average of 200 or more employees.

Participation: All employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate and each employee eligible to participate in the plan may elect any benefit available under the plan.

Employers may elect to exclude employees who:

- Are under age 21 before the close of the plan year;
- Have less than one year of service as of any day during the plan year;
- Are covered under a collective-bargaining agreement; or
- Are nonresident aliens working outside the United States whose income did not come from a U.S. source.

Contribution requirements: Employers must make a contribution to provide qualified benefits on behalf of each qualified employee in an amount equal to:

1. A uniform percentage (not less than 2 percent) of the employee’s compensation for the plan year; or
2. An amount which is at least 6 percent of the employee’s compensation for the plan year or twice the amount of the salary reduction contributions of each qualified employee, whichever is less.

If the contribution requirements are met using option two, the rate of contribution to any salary reduction contribution of a highly compensated or key employee cannot be greater than the rate of contribution to any other employee.

Official Guidance:

The federal departments provide regulatory guidance on this topic in the following material:

IRS Publication 15-B regarding Cafeteria Plans: click here.

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